

DEC 02 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

#23

Applicant(s): William J. Slyne
Application No.: 09/094,719
Filed: 6/15/1998
Title: PATTERN CUTTING
Attorney Docket No.: AIRD 3

Group Art Unit: 3729

Examiner: Minh Trinh

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DEC 03 2002

Assistant Commissioner for Patents
Washington, D.C. 20231

OFFICE OF PETITIONS

RENEWED PETITION UNDER 37 C.F.R. § 1.137(b)

Applicant submits this Renewed Petition in response to the Decision On
Petition mailed September 3, 2002 in the present application.

Applicant submits this Renewed Petition for Revival of the unintentional
abandonment of the present application. This Petition is a renewal of the
earlier-filed Petition on July 19, 2002. On September 3, 2002, that original
Petition was dismissed. Although not explicitly requested in that Decision,
Applicant assumes that the action by the Petitions Attorney is a request for
additional information of unintentional delay as authorized by Rule 1.137(b)(3).

This Renewed Petition includes the Declaration of William J. Slyne
(inventor and CEO of Assignee), as well as the Declarations of all of the
attorneys involved with the patent application since the last Office Action dated
August 15, 2001. The Declarations and attached correspondence evidence the
specific facts of delay and more importantly, that the delay was unintentional.

Rule 1.137(b) - - Revival of Unintentionally Abandoned Application

Turning first to the rule for reviving unintentionally abandoned applications, the Petitions Attorney has already cited and set forth Rule 1.137(b), so it is not repeated herein. As noted in the related portions of the MPEP (711.03(c)(1)), the purpose of Rule 1.137(b) is to give the Patent Office discretion to revive abandoned applications in appropriate circumstances. It is required, however, that the action be unintentional. If there is any intended abandonment and delay, then a petition must be denied. As is demonstrated by the facts in this application, the delay in filing the Petition was unintentional. There is not and has never been any doubt as to the merits of the claimed invention. Instead, applicant's frustration with the Patent Office actions and a misunderstanding of Patent Office rules combined with applicant's real-world obligations in running a small enterprise led to the delay in this case. The present application should be revived.

Factual Background - - Prosecution History

Before turning to the specific events and timeline since the last Office Action, it is necessary to look first at the prosecution file history in this application to lay the foundation of the state of mind of the applicant William J. Slyne (Industrial Evolution). The August 15, 2001 Office Action was at least the fifth substantive rejection in this file history. Each rejection cited new prior art. At least three and maybe more different Examiners have been substantively involved in the prosecution. Further, the prior art cited in each

Office Action has not ever been a quality reference as evidenced by the ever changing art that is cited. (In other words, Applicant is not fighting a losing battle against a single, dominating reference.) As a result of the all the forgoing action, the Applicant is very frustrated with the patent process. Clearly, it is difficult for Applicant to understand the seemingly inconsistent actions to date. More importantly, applicant's tenacious pursuit of a patent despite the seeming Patent Office errors is evidence of the intent to do whatever it takes to fight for the patent that is deserved. There is not and has not been any intention to abandon the application.

Factual Background – Applicant/Patent Attorney Contacts

Turning now to the evidence of actions taken since August 15, 2001, it will be clear that there was never any intention to abandon the application. Further, there was never any intentional delay in filing the Petition To Revive the application and the present Renewed Petition.

In the several months immediately after the Office Action of August 15, 2001, there was correspondence and discussion between Mr. Slyne and Mr. Gierczak -- the inventor/applicant and the patent attorney who prepared and was prosecuting the application. During this time, Mr. Slyne asked Mr. Gierczak about any deadline for action in connection with the case. Mr. Gierczak, obviously thinking of the three months of extension of time available to the applicant, said that the longer that Mr. Slyne waits, the greater will be the cost to respond. Mr. Slyne, obviously a busy man, and certainly no patent

law expert, heard no deadline from Mr. Gierczak. Instead, he heard that the longer he waited, the greater the cost would be to respond. (See Declarations of Slyne and Gierczak.)

At this time, Mr. Slyne decided strategically to find a new patent counsel to see if it was possible to break the perceived log jam in the Patent Office. He was referred in December 2001 to the Aird & Berlis firm in Toronto. Ms. Edward assisted Mr. Slyne with an unrelated patent matter for a period of several weeks. After being favorably impressed with her work, she was asked to assist in handling the present U.S. case. All of the files of Industrial Evolution were subsequently forwarded and transferred from Mr. Gierczak to Aird & Berlis.

Shortly after receiving the files from Mr. Gierczak, Ms. Edward contacted Mr. Thomas regarding the present application. Mr. Thomas responded to Ms. Edward regarding the merits of the case generally and a proposal for moving forward. Mr. Slyne, still believing that delay only meant increased costs, simply did not focus on resolving to immediately move the process forward. He was consumed with other pressing matters.

Once Mr. Slyne formally retained Mr. Thomas, Mr. Thomas spoke to Mr. Slyne directly to determine whether the delay was unintentional. Mr. Thomas also spoke with Ms. Edward. As a result of those discussions, the Petition and Response to the Office were prepared and filed promptly on July 15, 2002. It was believed at the time of filing of the Petition for Revival that a detailed declaration similar to those attached to this Renewed Petition were not

necessary. In fact, while no statement was believed necessary (other than that the delay was unintentional) the short summary was merely provided as an informational outline.

Factual Background – Mr. William Slyne (Applicant)

As is demonstrated in detail in the Declaration of William Slyne, the applicant is an entrepreneur running a small business. He is the inventor, CEO of the Assignee, and, obviously, responsible for virtually every aspect of the business of his company Industrial Evolution, the Assignee here. The proposals, product development and manufacturing issues with respect to the RM4, RM12 and other products of Industrial Evolution are significant tasks where Mr. Slyne is intimately involved. His is not a large company where he merely delegates out the work. If he is unable to focus on the major work issues, it is at the jeopardy of the livelihood of his company. The last year has been very active for Mr. Slyne with new product development and implementation. As noted in his declaration, there were time periods where his customers literally occupied his office space for extended periods of time. All of these business issues are his livelihood. They are his first priority as a necessity for supporting himself and his family.

In addition to these substantial work commitments that he has faced, there have also been meaningful personal events that have required large commitments of his time. His wife gave birth to his second child in March. He sold his house and bought a new house and moved in shortly thereafter.

Finally, in addition to his customer and family obligations, the internal operations of Industrial Evolution have been very demanding of his time. For instance, he is now operating with his third production manager in six months. This is substantial burden on him based on the size of his company and the growth mode that it is in.

The activities of Mr. Slyne indicate that he is something of a superman entrepreneur trying to handle and juggle everything himself. These time obligations and priorities, combined with his misunderstanding of the timing of filing a response, are a compelling story of his unintentional abandonment and subsequent delay in filing a Petition to Revive.

Summary

In the dismissal of the original petition, the Petition's Attorney criticized the Statement of Mr. Thomas for a lack of foundation. Therefore, for this Renewed Petition, Applicant has gone to extraordinary lengths to provide every fact available regarding the unintentional delay. As supported by the attached Declarations, the actions in not filing the Petition until July were unintentional. Further, the subsequent preparation of the present renewed petition and attached Declarations went forward diligently and efficiently.

In view of the foregoing, Applicant submits that the evidence is overwhelming that the delay in filing the Petition to Revive in the present application was unintentional. A dismissal of Applicant's petition would be nothing short of a condemnation of the filings and efforts of all entrepreneurs

'seeking patent protection at the same time as managing a small business to earn a living. Applicant respectfully requests that the Petition be granted and that prosecution of the application move forward.

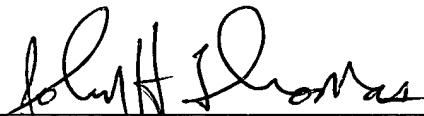
The Commissioner is hereby authorized to charge any deficiencies in payment of the following fees associated with this communication or credit any overpayment to Deposit Account No. 50-2127.

Respectfully Submitted,

November 25, 2002

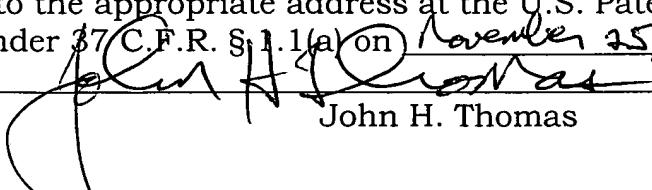
Date

John H. Thomas, P.C.
John H. Thomas
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Tel. 804 344 8130

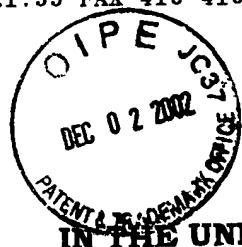

John H. Thomas
Attorney/Agent for Applicant(s)
Reg. No. 33,460

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to the appropriate address at the U.S. Patent and Trademark Office required under 37 C.F.R. § 1.1(a) on November 25, 2002.

by: 

John H. Thomas

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

| | |
|--------------------------------|----------------------|
| Applicant(s): William J. Slyne | |
| Application No.: 09/094,719 | Group Art Unit: 3729 |
| Filed: 6/15/1998 | Examiner: Minh Trinh |
| Title: PATTERN CUTTING | |
| Attorney Docket No.: AIRD 3 | |

Assistant Commissioner for Patents
Washington, D.C. 20231

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Declaration Of William J. Slyne

DEC 03 2002

OFFICE OF PETITIONS

I, William J. Slyne, declare and say:

1. I am President and CEO of Industrial Evolution Inc., the applicant in the present application. I am the named inventor. The company Industrial Evolution is a small company consisting of 4 to 8 employees over the last year. I am the only person knowledgeable of or having the authority to make decisions with respect to the patent matters of Industrial Evolution.

2. In the course of the present patent application process that has already lasted over four years, I have become very confused and frustrated about the numerous office actions by the Patent Office. Many different patents have been cited by different Examiners against my application, but I believe

that all of the cited references are significantly different from my invention. I do not understand all of the new and changing arguments from Patent Office examiners.

3. Shortly after it issued, I received the August 18, 2001 Office Action from Mr. Gierczak. I could not believe that there was yet another and different rejection of the application.

4. After receiving a copy of the August 15, 2001 Office Action, I discussed various options for proceeding and timing for proceeding with Mr. Gierczak. At that time, I understood Mr. Gierczak to say that the more time that passed before a response was prepared, the more filing fees there would be. I understood that there was no actual deadline, but only a rising cost to respond.

5. I am not an experienced inventor with respect to Patent Office proceedings, but all of the unfair rejections (in my opinion) that I had received made me consider alternative options for proceeding. In my frustration, I decided that new counsel might possibly be able to obtain better results in connection with the present application.

6. After some research and inquiry into alternative counsel, I was referred to Donald Cameron at the law firm Aird & Berlis in Toronto. I spoke to Mr. Cameron in late November 2001. Shortly thereafter, he associated me with Valerie G. Edward in his office to assist me with my patent matters.

7. I started my communications with Ms. Edward in December 2001. In order to become acquainted with Ms. Edward and to see how well we would work together, I initially only discussed with her an international patent application unrelated to the present invention. This initial work impressed me to the extent that I decided to move all of my (and Industrial Evolution's) patent and trademark work to Ms. Edward and Aird & Berlis.

8. In June 2002, I understood for the first time the need for prompt action in connection with the present application. Until seeing the email from Mr. Thomas dated June 12, 2002, I was operating with my understanding from Mr. Gierczak that the passage of more time before filing a response to the Office Action merely meant more government fees. Once I understood that there were time obligations associated with filing a Petition for Revival, I essentially immediately began work with Mr. Thomas and helped prepare and finalize the response and petition that were filed on July 15, 2002.

9. I received the Decision on Petition from Mr. Thomas on September 11, 2002. The Decision seems to me to be another one of the same, unexplainable and unreasonable actions by the Patent Office that I have received in this application process. In any event, I gave the go ahead to Mr. Thomas on September 30, 2002 to go forward with preparing this detailed Supplemental Petition and accompanying Declarations.

10. In addition to the foregoing involvement specifically with regard to patent matters, I have been extremely busy with my corporate and personal life over at least the past year. In November 2001, I had to demonstrate a new type of rotary mold machine called an "RM4", which I had invented (US6106649). This machine still needed development work. Beginning in January 2002 through March 2002 there were problems with products manufactured by the machine. Solving these problems required intensive research and development and a dedicated commitment of my personal time.

11. My second child was born in late March 2002. I took time off to assist my wife in the early weeks after the birth of our second child.

12. In May 2002, the production manager of Industrial Evolution resigned. I was compelled to identify and hire a new production manager. I trained the new production manager in June 2002. I had to identify and

hire a third production manager after the second production manager left in September 2002. Obviously, we are a small company. The constant turn over in production managers requires substantial dedication of my personal time.

13. I sold my residence in May 2002. I spent June 2002 searching for and buying a new house. My family and I moved into our new house in September 2002.

14. Beginning in July 2002, I was conducting research and preparing a proposal for a new rotary mold machine referred to as an "RM10or "RM12" machine. The contract to design and build this machine was won in August 2002. In October 2002, the customer of Industrial Evolution for the RM12 machine literally moved in and occupied space at the facility of Industrial Evolution until early November 2002.

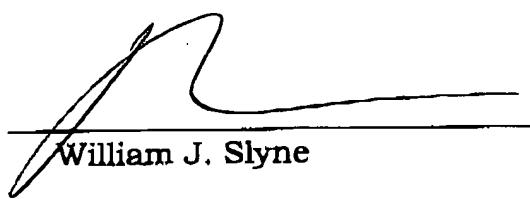
15. Beginning in September 2002 through early November 2002, I was personally intimately involved in designing a new laser cutting software for use in connection with the various cutting machines sold by Industrial Evolution.

16. The machines and software discussed in this Declaration are the primary business of Industrial Evolution. They are not trivial undertakings. On the contrary, if these projects were set aside or postponed, they would jeopardize the entire existence of the company and my personal livelihood.

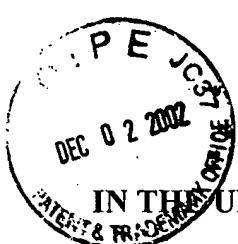
17. The entire delay in filing the required response to the Office Action from its due date until the filing of a grantable petition pursuant to 37 C.F.R. 1.137(b) has been unintentional.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: NOV 21, 2002



William J. Slyne



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant(s): William J. Slyne

Application No.: 09/094,719

Filed: 6/15/1998

Title: PATTERN CUTTING

Attorney Docket No.: AIRD 3

Group Art Unit: 3729

Examiner: Minh Trinh

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OFFICE OF PETITIONS

Assistant Commissioner for Patents
Washington, D.C. 20231

Declaration Of Eugene J. A. Gierczak

I, Eugene J. A. Gierczak, declare and say:

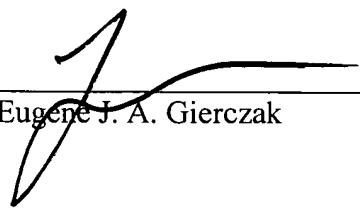
1. I am presently a partner with the firm Miller, Thomson in Toronto. I was formerly a partner with Keyser, Mason & Ball in Mississauga, Ontario, Canada. I am the patent attorney who prepared and filed the present patent application on June 15, 1998. I was primarily responsible for the prosecution of this application until the Fall of 2001.
2. The prosecution file history of the present application speaks for itself. Nevertheless, I note that there were multiple, non-final office actions that were issued in connection with this application. In each action, new prior art references and reasons for rejection were raised.

3. Up to August 2001, the total fees and expenses billed to the inventor Bill Slyne and the applicant Industrial Evolution were approximately \$20, 337.08 (Cdn.).
4. Attached to this Declaration is a copy of all correspondence with Mr. Slyne (Industrial Evolution) and Valerie Edward (Aird & Berlis) after the August 15, 2001 Office Action.
5. In the time period after August 15, 2001 and before November 15, 2001, in addition to the foregoing written correspondence, I had telephone discussions with Mr. Slyne regarding his options and timing for proceeding. I advised Mr. Slyne that he had a right to request extensions of time to file a response to the August 15 Office Action, but that longer extension meant greater extension fees. This advice was based on his entitlement to three months of extensions after November 15, 2001.
6. I subsequently learned that Mr. Slyne sought different patent counsel. On or about January 28, 2002, I forwarded a complete set of Mr. Slyne's patent files to Aird & Berlis in Toronto.
7. I am not aware of any fact of intentional delay on the part of Mr. Slyne or Industrial Evolution.

I further declare that all statements made herein of my own knowledge are true and that

all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: Nov. 7, 2002


Eugene J. A. Gierczak

KEYSER MASON BALL, LLP

Barristers & Solicitors ~ Patent & Trade-Mark Agents

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E-mail Address: gierczak@kmblaw.com
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John B. Keyser, Q.C.
Eugene J.A. Gierczak
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Lorelei G. Graham
Anthony DeFazekas
Jennifer L. Ferguson
Michael J. Boll

Counsel:
Colin I. Mason, Q.C.
The Honourable B. Barry Shapiro, Q.C.

August 29, 2001

Industrial Evolution Inc.
Att'n: Mr. Bill Slyne
P.O. Box 245
Station "R"
Toronto, ON M4G 3Z9

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DEC 03 2001

OFFICE OF PETITIONS

Dear Sir:

RE: Invention: PATTERN CUTTING
Applicant: William J. Slyne
CONTINUED PROSECUTION APPLICATION
(from 09/094,719 – June 15, 1998)
Country: United States

Further to our letter dated July 24, 2001, please find enclosed herewith a copy of an office action which we have received from the United States Patent Office in connection with the above-noted matter.

Kindly note that a response must be filed on or before **NOVEMBER 5, 2001** in order to avoid abandonment of your application and accordingly I would be pleased to discuss this matter with you at your earliest convenience.

Yours very truly,

KEYSER MASON BALL, LLP


Per: Eugene J.A. Gierczak
EJAG*d – encls.

File: # H:\gaeuge~\indusevo\cutting\us\cpa\client.ltr

Associates at:

Berlin • Brussels • Frankfurt • London • Paris • Tokyo • Warsaw

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Anthony DeFazekas
Jennifer L. Ferguson
Arun V.P.S. Menon

Counsel:
Colin I. Mason, Q.C.
The Honourable B. Barry Shapiro, Q.C.

January 28, 2002

Via City Centre Courier

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DEC 03 2002

OFFICE OF PETITIONS

Aird & Berlis
Attn: Ms. Valerie Edward
BCE Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

Dear Ms. Edward:

RE: Invention: Pattern Cutting
App. No.: 2,240,603 (June 12, 1998)
App. No.: 09/094,719 (June 15, 1998)
Applicant: Industrial Evolution Inc.
Countries: Canada and U.S.

At the request of Mr. William Slyne of Industrial Evolution Inc. we are enclosing the following materials relating to the above-noted matters:

Canada

- (a) application as filed
- (b) filing receipt
- (c) courtesy letter
- (d) response dated September 8, 1999

The first maintenance fee is due on or before **JUNE 12, 2002** and examination must be requested on or before **JUNE 12, 2003**.

U.S.

- (a) application as filed

- (b) filing receipt
- (c) office action dated September 9, 1999
- (d) response dated October 6, 1999
- (e) office action dated November 24, 1999
- (f) response dated February 23, 2000
- (g) voluntary amendment dated March 6, 2000
- (h) office action dated May 22, 2000
- (i) response dated August 22, 2000
- (j) office action dated November 22, 2000
- (k) response dated March 22, 2001
- (l) advisory action dated March 28, 2001
- (m) continued prosecution request dated April 18, 2001
- (n) office action dated July 17, 2001
- (o) response dated July 24, 2001
- (p) office action dated August 15, 2001
- (q) filing receipt for CPA.

With the payment of a three-month extension fee you may file a response to the office action dated August 15, 2001 **not later than FEBRUARY 15, 2002.**

Please do not hesitate to contact the undersigned should you have any questions concerning this matter.

Yours very truly,

KEYSER MASON BALL, LLP

Per: Eugene J.A. Gierczak
EJAG*d - encls.

cc: Bill Slyne (w/o encls)



THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|--------------------------------|----------------------|
| Applicant(s): William J. Slyne | |
| Application No.: 09/094,719 | Group Art Unit: 3729 |
| Filed: 6/15/1998 | Examiner: Minh Trinh |
| Title: PATTERN CUTTING | |
| Attorney Docket No.: AIRD 3 | |

Assistant Commissioner for Patents
Washington, D.C. 20231

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OFFICE OF PETITIONS

I, Valerie G. Edward, declare and say:

1. I am a member of the firm Aird & Berlis LLP in Toronto, Canada. Aird & Berlis LLP is counsel to Bill Slyne and Industrial Evolution with respect to intellectual property law matters.
2. In November 2001, I understand that Mr. Slyne contacted Donald Cameron at Aird & Berlis seeking intellectual property law representation. Mr. Cameron referred Mr. Slyne to me in December 2001.
3. Mr. Slyne sought my assistance with an unrelated patent application. He retained me to review the search report issued on an unpublished PCT application for a method of differential velocity extrusion, in order to

obtain a second opinion on whether it would be possible to overcome the prior art located in the search. This initial work was conducted on the basis of a review of documents from which all references to the appointed patent agent had been removed. I provided my assessment to Mr. Slyne on December 18, 2001.

4. Mr. Slyne advised me by voicemail on January 8, 2002 that he had spoken with Mr. Eugene Gierczak of Keyser, Mason & Ball, and requested the transfer of Mr. Slyne's files to Aird & Berlis, and that he wished me to proceed with the PCT application, including filing an amendment as recommended in my letter of December 18, 2001.

5. Mr. Slyne and I did not discuss any other patent applications in his patent portfolio until after the files were transferred to Aird & Berlis. I was not aware of the subject US patent applicant and its prosecution history, or the upcoming deadline for response to the outstanding office action until I reviewed the files which I subsequently received from Mr. Gierczak.

6. I received the files relating to the differential velocity extrusion from Mr. Gierczak at Keyser, Mason & Ball under cover of his letter of January 28, 2002. I reviewed these files, and prepared and filed a Demand for preliminary examination under Chapter II of the PCT, and I reviewed the corresponding US and Canadian national patent application files for the same invention.

7. I received the files relating to the present US application from Mr. Gierczak at Keyser, Mason & Ball under cover of his second letter of January 28, 2002. A copy of this letter is attached.

8. Due to my focus on Mr. Slyne's PCT application and other workload in my office, I did not immediately review the enclosures to Mr. Gierczak's second letter, including the subject US application for pattern cutting.

9. On or about February 28, 2002 I reviewed the files, discovered that there was a February 15, 2002 deadline for the filing of a response to an office action on the US application for pattern cutting. I determined that there were procedures available to petition for reinstatement of the abandoned US application.

10. On or about March 1, 2002 I discussed the subject US application with Mr. Slyne by telephone. Mr. Slyne informed me that the prosecution history of the application file was convoluted and that at least 3 different examiners had been involved over a lengthy period of time. I advised Mr. Slyne that the February 15, 2002 deadline had passed for responding to the office action, but that it was possible to petition for revival of the application. Mr. Slyne indicated that he believed that there was a patentable invention of value in the application, and asked me to pursue what needed to be done to revive the application.

11. I contacted Mr. John Thomas on or about March 1, 2002 regarding his availability to represent Mr. Slyne and Industrial Evolution in connection with this application at the United States Patent Office. A copy of my email to Mr. Thomas is attached.

12. On March 4, 2002, I received a fax letter from Mr. Thomas regarding the abandonment of the present application and regarding the existence of a procedure to revive the application based on unintentional abandonment. I passed this information to Mr. Slyne, in a letter dated March 13, 2002, copy attached, and requested from him information regarding his ongoing intention to proceed with the application throughout the time since the official action was issued.

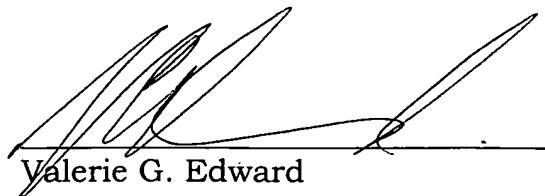
13. On April 16, 2002, I sent the prosecution file history of the present application to Mr. Thomas. On April 19, 2002, I received a letter from Mr. Thomas regarding his initial review of the file and his request for an advance on fees to represent Industrial Evolution in this application. I prepared a report to Mr. Slyne concerning Mr. Thomas' review of the file and request for a retainer on or about May 17, 2002. My report to Mr. Slyne was finalized and mailed May 21, 2002.
14. On May 17, 2002, I received and forwarded the Notice of Abandonment of the present application to Mr. Thomas.
15. Mr. Thomas sent further follow up letters seeking a response to his letter of April 19, 2002. Each of those letters was forwarded to Mr. Slyne. I followed up with Mr. Slyne by telephone regarding whether he intended to proceed with a petition to revive the subject US application.
16. In the Spring and early Summer of 2002, I worked with Mr. Slyne in connection with Canadian patent matters relating to the corresponding Canadian patent application for pattern cutting, the PCT application for differential velocity extrusion, and trade-mark matters.

17. On June 12, 2002, I sent an email to Mr. Thomas and requested any dates with respect to statutory deadlines for filing a Petition to Revive the present application. Mr. Thomas replied by email on that date, and I forwarded that response to Mr. Slyne.

18. I am not aware of any facts or evidence of intentional delay in filing the Petition for Revival as a result of unintentional abandonment in connection with this application.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: November 20, 2002



Valerie G. Edward

KEYSER MASON BALL, LLP

Barristers & Solicitors ~ Patent & Trade-Mark Agents

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Reply to: Eugene J.A. Gierczak
Direct Line: (905) 276-0403
E-mail Address: gierczak@kmblaw.com
Matter: 9991-05*06

John J. Ball
Garth D. Walkden
M. Lee Stratton
Marc S. Tannenbaum
Mary J. Main
Peter J. Chilibeck
Lorelei G. Graham
Patrizia Piccolo
Liane Lagroix

John B. Keyser, Q.C.
Eugene J.A. Gierczak
Ruben R. Goulart
Charles P. Stobie
Brian M. Jenkins
Ian J. Wick
Anthony DeFazekas
Jennifer L. Ferguson
Arun V.P.S. Menon

Counsel:
Colin I. Mason, Q.C.
The Honourable B. Barry Shapiro, Q.C.

January 28, 2002

Via City Centre Courier

Aird & Berlis
Attn: Ms. Valerie Edward
BCE Place, Suite 1800
181 Bay Street
Toronto, ON M5J 2T9

RECEIVED
DEC 03 2002
OFFICE OF PETITIONS

Dear Ms. Edward:

RE: Invention: Pattern Cutting
App. No.: 2,240,603 (June 12, 1998)
App. No.: 09/094,719 (June 15, 1998)
Applicant: Industrial Evolution Inc.
Countries: Canada and U.S.

At the request of Mr. William Slyne of Industrial Evolution Inc. we are enclosing the following materials relating to the above-noted matters:

Canada

- (a) application as filed
- (b) filing receipt
- (c) courtesy letter
- (d) response dated September 8, 1999

The first maintenance fee is due on or before **JUNE 12, 2002** and examination must be requested on or before **JUNE 12, 2003**.

U.S.

- (a) application as filed

Associates at:

Berlin • Brussels • Frankfurt • London • Paris • Tokyo • Warsaw

- (b) filing receipt
- (c) office action dated September 9, 1999
- (d) response dated October 6, 1999
- (e) office action dated November 24, 1999
- (f) response dated February 23, 2000
- (g) voluntary amendment dated March 6, 2000
- (h) office action dated May 22, 2000
- (i) response dated August 22, 2000
- (j) office action dated November 22, 2000
- (k) response dated March 22, 2001
- (l) advisory action dated March 28, 2001
- (m) continued prosecution request dated April 18, 2001
- (n) office action dated July 17, 2001
- (o) response dated July 24, 2001
- (p) office action dated August 15, 2001
- (q) filing receipt for CPA.

With the payment of a three-month extension fee you may file a response to the office action dated August 15, 2001 **not later than FEBRUARY 15, 2002.**

Please do not hesitate to contact the undersigned should you have any questions concerning this matter.

Yours very truly,

KEYSER MASON BALL, LLP

Per: Eugene J.A. Gierczak
EJAG*d - encls.

cc: Bill Slyne (w/o encls)

Valerie Edward

From: Valerie Edward
Sent: March 1, 2002 11:48 AM
To: John H. Thomas (E-mail)

*Pattern
Cutting
BF (0 days)*

Hi John.

A new client has transferred its files over to A&B. Amongst the files are 2 US Patent applications and the trade-mark application copied below. I would like to get you involved in these matters as US agent.

Can you provide forms of revocation and appointment of agent for execution?

The inventor/applicant on the patent applications is William J Slyne. His company is Industrial Evolution Inc.

The US patent applications are 09/094,719 for PATTERN CUTTING and 09/609,867 for DIFFERENTIAL VELOCITY EXTRUSION

09/0943,719 has recently gone abandoned for failure to respond to an office action issued August 15, 2001. This one was published Jan 31, 2002 so you can get an advance look. US-2002-0011138 A1

Bill wants to petition to revive the application as unintentionally abandoned. There have been about 5 OA's on the application and a continued prosecution application. In the short term, we'll need your thoughts on whether to reply to the OA or file a further CPA (is this possible?). Bill feels that his invention is valuable and wants to move the application forward expeditiously.

The 09/609,867 for DIFFERENTIAL VELOCITY EXTRUSION hasn't gone any where yet in the USA. We've just filed a Chapter II demand for the PCT, and an IDS was filed in the USA but there has not been US examination.

I look forward to hearing from you on these matters.

Valerie.



TESS was last updated on Fri Mar 1 04:29:23 EST 2002

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| <input checked="" type="checkbox"/> Structured Form Search | <input checked="" type="checkbox"/> Free Form Search | <input checked="" type="checkbox"/> Browse Dictionary Index | <input checked="" type="checkbox"/> Bottom |
| <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> | <input checked="" type="checkbox"/> On-line Help |
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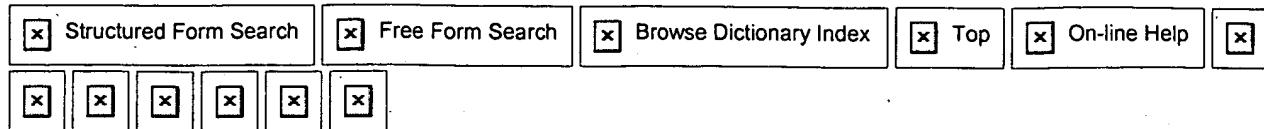
to record: Record 11 out of
42 [Link to TARR](#)

(TARR contains current status, correspondence address and attorney of record for this mark. Use the "Back" button of the Internet Browser to return to TESS)

Typed Drawing**Word Mark** INDUSTRIAL EVOLUTION INC.**Goods and Services** IC 009. US 021 023 026 036 038. G & S: computer hardware and software for industrial machining; computer hardware and software for two and three dimensional patterning; software and systems comprising of computer, modem, scanning device, and digitizing device, indication data base access by means of Internet for the design and manufacture of two and three dimensional textile and film manufacturing. FIRST USE: 19930900. FIRST USE IN COMMERCE: 19930900

IC 007. US 013 019 021 023 031 034 035. G & S: machines for two and three dimensional patterning. FIRST USE: 19930900. FIRST USE IN COMMERCE: 19930900

Mark Drawing Code (1) TYPED DRAWING**Serial Number** 76067696**Filing Date** June 12, 2000**Published for Opposition** December 25, 2001**Owner** (APPLICANT) Industrial Evolution Inc. CORPORATION CANADA 550 Queen Street East, Unit G121 Toronto, Ontario CANADA M5A 1V2**Attorney of Record** Eugene J.A. Gierczak**Disclaimer** NO CLAIM IS MADE TO THE EXCLUSIVE RIGHT TO USE "INDUSTRIAL" and "INC." APART FROM THE MARK AS SHOWN**Type of Mark** TRADEMARK**Register** PRINCIPAL**Live/Dead Indicator** LIVE [USPTO Homepage](#) [Trademark Office Homepage](#) [TESS Homepage](#) [New User Form](#)



Kind Regards,

Valerie G. Edward

AIRD & BERLIS LLP

BCE Place
Suite 1800, Box 754
181 Bay Street,
Toronto, Ontario
Canada
M5J 2T9

Direct Dial: 416 . 865 . 3403
Facsimile: 416 . 863 . 1515
Email: vedward@airdberlis.com

Web: www.airdberlis.com

This email may contain confidential and/or privileged information for the sole use of the intended recipient. Any review or distribution by others is strictly prohibited. If you have received this email in error, please contact the sender and delete all copies. Opinions, conclusions or other information expressed or contained in this email are not given or endorsed by the sender unless otherwise affirmed independently by the sender.

JOHN H. THOMAS, P.C.

1561 East Main Street
Richmond, Virginia 23219
www.ip-counsel.net

MAR 08 2002

Patents
Trademarks
Copyrights
Intellectual Property

(804) 344-8130
fax (804) 644-3643
jthomas@ip-counsel.net

March 4, 2002

VIA FACSIMILE & AIRMAIL

Valerie G. Edwards, Esq.
Aird & Berlis LLP
BCE Place, Suite 1800
Box 754
181 Bay Street
Toronto, Ontario
CANADA M5J 2T9

**CONFIRMATION
COPY**

Re: Industrial Evolution, Inc.
Patent and Trademark Matters

Dear Valerie:

Thank you for forwarding the information to us regarding the Industrial Evolution matters. We enclose by mail the Revocation and New Powers of Attorney for the two patent cases. Please have them signed and returned to us for filing in the Patent Office.

With respect to the trademark application, the application was published for opposition on December 25, 2001. Therefore, assuming no opposition to that application for registration was filed, the Certificate of Registration should now issue in due course (the next several months). Rather than gum up the bureaucratic machinery to merely receive and forward to you the Certificate of Registration, we suggest that the Power of Attorney is not urgent. For docketing purposes, however, we will need a copy of the registration once it issues.

With respect to the '867 application, all we need is the application file that includes the Information Disclosure Statement and any other materials regarding the invention. We can handle it thereafter.

Valerie G. Edwards, Esq.

March 4, 2002

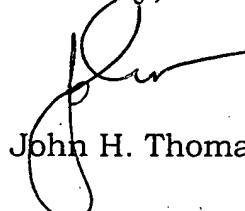
Page 2

Finally, with respect to the '719 patent application, there is of course a procedure to revive the application as unintentionally abandoned. Before I can make any informed recommendation regarding preparing a response to the outstanding Office Action, a further CPA, or a Notice of Appeal, I will need the full patent file including file history and all references cited. In the meantime, I will print out the published application in order to get a preview. Also, please provide some explanation for the unintentional abandonment of the application.

If you have any questions, please do not hesitate to call. We look forward to receiving the further materials from you.

Regards,

Sincerely,



John H. Thomas

JHT/fcr



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

William J. Slyne

Group Art Unit:

Serial No.: 09/609,867

Examiner:

Filed:

For: DIFFERENTIAL VELOCITY EXTRUSION

**REVOCATION OF POWER OF ATTORNEY
AND APPOINTMENT OF NEW ATTORNEY**

Assistant Commissioner for Patents
Washington, DC 20231

SIR:

Applicant hereby revokes all previous Powers of Attorney in the above-identified application and hereby appoints as its attorneys with power of substitution and revocation to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John H. Thomas (33,460)

whose postal address is:

John H. Thomas, P.C.
1561 East Main Street
Richmond, Virginia 23219
(804) 344-8130 phone
(804) 644-3643 fax

Date: _____

By: _____

Name: _____

Title: _____

Our Docket No.: AIRD 2



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

William J. Slyne

Group Art Unit:

Serial No.: 09/094,719

Examiner:

Filed:

For: PATTERN CUTTING

**REVOCATION OF POWER OF ATTORNEY
AND APPOINTMENT OF NEW ATTORNEY**

Assistant Commissioner for Patents
Washington, DC 20231

SIR:

Applicant hereby revokes all previous Powers of Attorney in the above-identified application and hereby appoints as its attorneys with power of substitution and revocation to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John H. Thomas (33,460)

whose postal address is:

John H. Thomas, P.C.
1561 East Main Street
Richmond, Virginia 23219
(804) 344-8130 phone
(804) 644-3643 fax

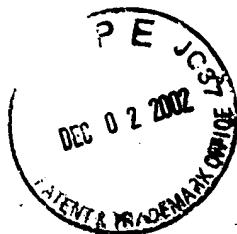
Date: _____

By: _____

Name: _____

Title: _____

Our Docket No.: AIRD 3



FILE COPY

Valerie G. Edward
Direct: 416.865.3403
E-mail: vedward@airdberlis.com

March 13, 2002

VIA MAIL

Mr. Bill Slyne
Industrial Evolution Inc.
P.O. Box 245, Station R
Toronto, ON
M4G 3Z9

Dear Mr. Slyne:

| | | |
|------------|------------------------|--------------------------|
| Re: | US Patent: | PATTERN CUTTING |
| | Application No: | 09/094,719 |
| | Applicant: | SLYNE, William J. |
| | Our File No: | 77846/vge |

I have advised our U.S. associate, John Thomas, of your intention to revive the above identified application, and he has confirmed that it is possible to revive an unintentionally abandoned application. I am forwarding copies of the entire prosecution file to him so that he may review the previous office actions and determine the best course of action upon whether to proceed by responding to the present office action, filing a further continued prosecution application or a Notice of Appeal.

We will also need to provide some explanation of the abandonment of the application including your ongoing intention to proceed with the application throughout the time period since the official action was issued in September, 2001. To that end, can you provide me with some explanation of the events which transpired between the issuance of the office action in September and the transfer of the files to our office in February.

I look forward to hearing from you.

Yours very truly,

AIRD & BERLIS LLP

Valerie G. Edward
VGE/dr

::ODMA\PCDOCS\DOCS\1162736\1



FILE COPY

Valerie G. Edward
Direct: 416.865.3403
E-mail: vedward@airdberlis.com

April 16, 2002

VIA COURIER

Mr. John H. Thomas
Law Offices of John H. Thomas, P.C.
1561 E. Main Street
Richmond, VA 23219
USA

Dear Mr. Thomas:

| | | |
|------------|------------------------|--------------------------|
| Re: | U.S. Patent: | PATTERN CUTTING |
| | Application No: | 09/094,719 |
| | Applicant: | SLYNE, William J. |
| | Our File No: | 77846/vge |

Enclosed herewith please find the executed Revocation and Appointment of Attorney in respect of the above identified U.S. patent application.

I am also enclosing a copy of all materials which I have obtained from the prior patent agent in connection with the prosecution of this application.

I look forward to receiving your comments upon whether to petition for reinstatement of this application, or to file a further continuation.

Yours very truly,

AIRD & BERLIS LLP

Valerie G. Edward
VGE/dr
Encl.

::ODMA\PCDOCS\DOCS\1177680\1

DEC 02 2002

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

William J. Slyne

Group Art Unit:

Serial No.: 09/094,719

Examiner:

Filed:

For: PATTERN CUTTING

**REVOCATION OF POWER OF ATTORNEY
AND APPOINTMENT OF NEW ATTORNEY**Assistant Commissioner for Patents
Washington, DC 20231

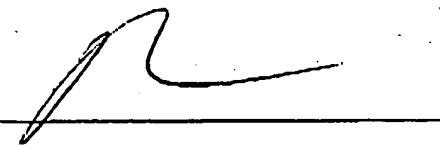
SIR:

Applicant hereby revokes all previous Powers of Attorney in the above-identified application and hereby appoints as its attorneys with power of substitution and revocation to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John H. Thomas (33,460)

whose postal address is:

John H. Thomas, P.C.
1561 East Main Street
Richmond, Virginia 23219
(804) 344-8130 phone
(804) 644-3643 fax

Date: MARCH 27, 2002By: Name: BILL SLYNETitle: PRESIDENT

Our Docket No.: AIRD 3

JOHN H. THOMAS, P.C.

PATENTS
TRADEMARKS
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1561 EAST MAIN STREET
RICHMOND, VIRGINIA 23219
www.ip-counsel.net

filed
Industrial 77846
and *unin*
PHONE: 04/344-8130
FAX: 804/644-3643
jthomas@ip-counsel.net

May 17, 2002

VIA FACSIMILE

Valerie G. Edwards, Esq.
Aird & Berlis LLP
BCE Place, Suite 1800
Box 754
181 Bay Street
Toronto, Ontario
CANADA M5J 2T9

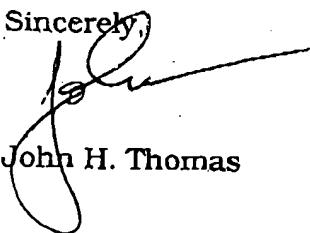
Re: U.S. Patent Application
Pattern Cutting
Application Serial No. 09/094,719
Your file No. 77846/vge
Our File No. AIRD 3

Dear Valerie:

Thank you for forwarding to us the formal Notice of Abandonment in connection with the above-referenced Pattern Cutting patent application. We have still not heard any response from you or the client regarding our letter dated April 19, 2002 with respect to this matter. We have not yet taken any steps with respect to this application. We will not pursue any actions until we hear from you.

If you have any questions, please do not hesitate to call.

Regards,

Sincerely,

John H. Thomas

JHT/jmb

LAW OFFICES
JOHN H. THOMAS, P.C.
1561 E. MAIN STREET
RICHMOND, VIRGINIA 23219

PHONE: (804) 344-8130
TELECOPIER: (804) 644-3643

TO: Valerie Edwards, Esq.

FAX #: 416 863 1515

FROM: John H. Thomas

DATE: May 17, 2002

PAGES 2, including this cover sheet

SUBJECT:

COMMENTS:



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

| | |
|--------------------------------|----------------------|
| Applicant(s): William J. Slyne | |
| Application No.: 09/094,719 | Group Art Unit: 3729 |
| Filed: 6/15/1998 | Examiner: Minh Trinh |
| Title: PATTERN CUTTING | |
| Attorney Docket No.: AIRD 3 | |

Assistant Commissioner for Patents
Washington, D.C. 20231

Supplemental Declaration Of John H. Thomas

I, John H. Thomas, declare and say:

1. I am the current patent attorney prosecuting the present application. I prepared and filed the Petition and the accompanying response on July 15, 2002. That Petition was subsequently dismissed on September 3, 2002.

2. On or about March 1, 2002, I received information from Ms. Valerie Edward regarding the potential representation of her client Bill Slyne (Industrial Evolution). In the materials that were forwarded to me, there was an Office Action in connection with the present application dated August 15, 2001. Aside from the Office Action, there was no application or file history forwarded at that time.

3. In response to receiving the Office Action from Ms. Edward, and so that I would be prepared to act if necessary and if retained by Mr. Slyne, I sent to Ms. Edward a blank Power of Attorney with a letter on March 4, 2002. A copy of this letter together with other correspondence and communications are attached to this Declaration.

4. In view of the recent abandonment of the application (the statutory abandonment occurred in my opinion on February 15, 2002 -- not November 15, 2001), and assuming current interest in the application based on the inquiry to me, I did not believe that it was urgent to compel immediate action from the client. I assume that actions would be taken as promptly as reasonably possible.

5. On April 17, 2002, I received the file history of this application from Ms. Edward. As is clearly evident from the file history, there are numerous actions, numerous Examiners that have been involved with the case, and numerous references cited against the present application.

6. On April 19, 2002, I outlined a course of action for proceeding to Ms. Edward. That letter included a request for an advance on fees as an indication of the actual instruction from the client to proceed.

7. On May 17, 2002, I received by fax the Notice of Abandonment from Ms. Edward.

8. I sent reminders to Ms. Edward requesting instructions for action on May 17 and May 30, 2002.

9. On June 12, 2002, I received an email from Ms. Edward regarding any deadline for filing a petition to revive. I responded that there is no statutory deadline, but delay would not be helpful if submitting a petition for revival as result of unintentional delay.

10. On or about July 3, 2002, I received a telephone call from Mr. Slyne. This was my first contact with Mr. Slyne directly. During that call, he advised me of his plans to proceed in connection with the present application. He indicated that a check in the amount of an advance on fees was in the mail. Accordingly, I began a detailed study of the prior art and prosecution file history.

11. After the telephone call with Mr. Slyne, I performed more detailed research with respect to Rule 1.137(b) and the related section of the MPEP. I sent a letter to Mr. Slyne on July 8, 2002.

12. I sent a draft response to the Office Action to Mr. Slyne for his review on July 10, 2002.

13. I had a telephone conference with Mr. Slyne on July 10, 2002 regarding the reasons for the delay in action. I subsequently prepared a draft statement of reasons for delay that was sent to Mr. Slyne on July 12, 2002.

14. After a discussion with Mr. Slyne, and in order to prevent any further delay, I signed the Statement that was submitted with the Petition for Revival. If I had waited to obtain Mr. Slyne's signature on a declaration, there would have been a further delay of at least several more days. Further, in accordance with Rule 1.137(b)(3), I filed the Statement as a preemptive, explanatory paper. Of course, the rules specifically provide that the Commissioner may require additional information where there is a question of unintentional delay.

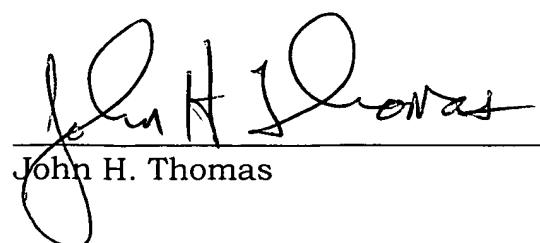
15. On September 6, 2002, I received the Decision on Petition. This decision was sent to Mr. Slyne on September 11, 2002. Follow up calls were made to Mr. Slyne on September 19 and September 24, 2002. On September 25, 2002, I spoke in detail with Mr. Slyne regarding the initial decision on the petition. On September 30, 2002, in a telephone conference, Mr. Slyne instructed me to go forward with the preparation of a supplemental petition.

16. Over the next six weeks, I had detailed discussions with Mr. Slyne, Ms. Edward and Mr. Gierczak regarding all of the facts pertaining to the time between the Office Action and the present. Mr. Gierczak had difficulty obtaining files from his old firm. Mr. Slyne has been consumed with pressing business issues. The present renewed petition has been prepared and assembled despite the multiple time conflicts at issue.

17. I am not aware of any fact of intentional delay in connection with the filing of the Petition for Revival and the Renewed Petition for Revival in this application.

I further declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

Date: November 22, 2002


John H. Thomas

MILLER THOMSON LLP

Barristers & Solicitors, Patent & Trade Mark Agents

2500, 20 Queen Street West
Toronto, ON, Canada M5H 3S1
Tel: 416.595.8600
Fax: 416.595.8695
www.millerthomson.com

Direct line: 416.596.2132
E-mail: egierczak@millerthomson.ca

November 6, 2002

Sent via facsimile to 804.644.3643

John H. Thomas, P.C.
Attention: John H. Thomas, Esq.
1561 East Main Street
Richmond, Virginia 23219

Dear Mr. Thomas

Re: Industrial Evolution Inc. – Bill Slyne

As you are aware, I have recently moved from the law firm of Keyser Mason Ball, LLP to Miller Thomson, LLP. Industrial Evolution Inc. was a client of mine at Keyser Mason Ball, LLP. When this file was transferred to Valerie Edward at Aird & Berlis, our file was closed out. The documents which I need to complete the Declaration are in the closed file.

I was initially advised by Keyser Mason Ball, LLP that an e-mail from you to me indicating what information you require and for what purpose would be sufficient to have the closed file transferred to me. However, I have now been advised that Keyser Mason Ball, LLP is unwilling to transfer the file to me, or copies of any documents in the file, without a signed Direction from Industrial Evolution Inc. (Bill Slyne).

In this regard, please find enclosed a Direction to transfer the file from Keyser Mason Ball, LLP. Please have Bill Slyne execute the attached Direction and return to me by fax as soon as possible. I have also send a copy of the Direction to Valerie Edward.

I apologize for any inconvenience or delay which may be caused by the way in which Keyser Mason Ball, LLP has handled this matter.

John Thomas

From: John Thomas [jthomas@ip-counsel.net]
Sent: Thursday, October 10, 2002 10:47 AM
To: Valerie Edward; egierczak@millerthomson.ca; billslyne@industrial-evolution.com
Subject: Draft Renewed Petition and Declarations

[Word Document Icon]
supplemental slyne edward gierczak thomas
petition.doc declaration.doc declaration.doc declaration.doc supplemental declarati

Valerie, Bill and Gene,
Attached are drafts of everyone's declarations and a renewed petition for seeking revival of the pattern cutting patent application. You are invited to review and comment on each of the declarations and petition, but I am most interested in your revisions and suggestions for your declarations. I NEED YOUR INPUT. Also, as you can see, each declaration will have correspondence attached to it, so those materials also need to be compiled and copied for attachment.

The Petitions Attorney has made a pointed issue about promptness and timeliness, so I appreciate everyone's prompt attention to this matter. I hope to have everyone's comments received, attachments copied, and papers filed within the next two weeks. Sorry for the rush.

Thanks for your help.

John

JOHN H. THOMAS, P.C.

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1561 EAST MAIN STREET
RICHMOND, VIRGINIA 23219
www.ip-counsel.net

PHONE: 804/344-8130
FAX: 804/644-3643
jthomas@ip-counsel.net

September 11, 2002

VIA FACSIMILE

William J. Slyne
Industrial Evolution Inc.
P. O. Box 245, Station R
Toronto, Ontario
CANADA M4G 3Z9

Re: U.S. Patent Application
Pattern Cutting
Application Serial No. 09/094,719
Your file No. 77846/vge
Our File No. AIRD 3

Dear Bill:

Attached is the Decision of the Patent Office with respect to the petition to revive the above-referenced patent application. As you can see, the Petitions Attorney has dismissed (denied) the revival petition.

We have two months in which to file a Request For Reconsideration. Therefore, we have until November 3, 2002 in which to file a petition for reconsideration. As you can see from the decision, however, a Request For Reconsideration should be filed without delay.

As is evident from the decision, in order to prevail on this petition, substantial additional work needs to be done to prove that the delay was unintentional. Fortunately, based on our discussions, we know that the delay was unintentional. Nevertheless, we must now be careful and thorough to prove it. In order to make sure that a Request For Consideration has the best possible chance for success, I believe that we will need to file several declarations. I believe that those declaration would include statements by yourself, Eugene Gierzak, Valerie Edwards and myself. In each instance, the statements would describe in substantial detail the reason why the delay in filing the required response was unintentional. I enclose again for your review.

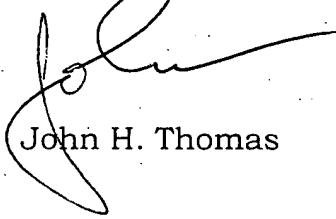
Bill Slyne
Industrial Evolution Inc.
September 11, 2002
Page 2

and study the relevant section of the Manual of Patent Examining Procedures that was also cited by the Petitions Attorney.

Please call at your earliest convenience so that we can discuss how you want to proceed.

Regards.

Sincerely,



John H. Thomas

JHT/fcr

Enclosures

cc: Valerie Edwards, Esq. (Via Facsimile)

JOHN H. THOMAS, P.C.

PATENTS
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1561 EAST MAIN STREET
RICHMOND, VIRGINIA 23219
www.ip-counsel.net

PHONE: 804/344-8130
FAX: 804/644-3643
jthomas@ip-counsel.net

July 18, 2002

Valerie G. Edwards, Esq.
Aird & Berlis LLP
BCE Place, Suite 1800
Box 754
181 Bay Street
Toronto, Ontario
CANADA M5J 2T9

Re: U.S. Patent Application
Pattern Cutting
Application Serial No. 09/094,719
Your file No. 77846/vge
Our File No. AIRD 3

Dear Valerie:

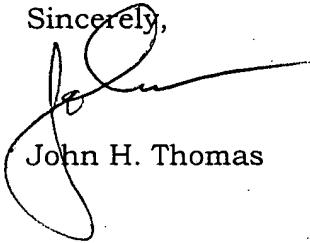
Enclosed are the documents we prepared and filed in the U.S. Patent and Trademark Office in connection with the above-referenced patent application.

Also enclosed is our Invoice for fees and expenses relating to this filing.

If you have any questions, please do not hesitate to call.

Regards,

Sincerely,



John H. Thomas

JHT/fcr

Enclosures

cc: William J. Slyne

JOHN H. THOMAS, P.C.

PATENTS
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1561 EAST MAIN STREET
RICHMOND, VIRGINIA 23219
www.ip-counsel.net

PHONE: 804/344-8130
FAX: 804/644-3643
jthomas@ip-counsel.net

July 12, 2002

VIA FACSIMILE

William J. Slyne
Industrial Evolution Inc.
P. O. Box 245, Station R
Toronto, Ontario
CANADA M4G 3Z9

Re: U.S. Patent Application
Pattern Cutting
Application Serial No. 09/094,719
Your file No. 77846/vge
Our File No. AIRD 3

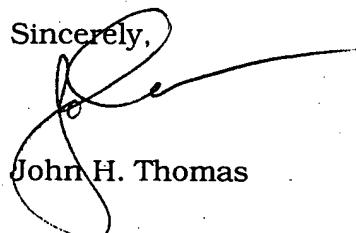
Dear Bill:

Enclosed is a draft statement containing facts about the unintentional delay. Please review this statement for accuracy. We will file it with the petition as soon as possible.

If you have any questions, please do not hesitate to call.

Regards.

Sincerely,


John H. Thomas

JHT/jmb

Enclosures

*** TX REPORT ***

TRANSMISSION OK

| | |
|----------------|---------------|
| TX/RX NO | 2350 |
| CONNECTION TEL | 14164100655 |
| SUBADDRESS | |
| CONNECTION ID | IEI CORPORATE |
| ST. TIME | 07/12 12:04 |
| USAGE T | 04'49 |
| PGS. | 5 |
| RESULT | OK |

LAW OFFICES
JOHN H. THOMAS, P.C.
1561 E. MAIN STREET
RICHMOND, VIRGINIA 23219

PHONE: (804) 344-8130
TELECOPIER: (804) 644-3643

TO: William J. Slyne

FAX #: 416 410 0655

FROM: John H. Thomas

DATE: July 12, 2002

PAGES 5, including this cover sheet

SUBJECT:

COMMENTS:

JOHN H. THOMAS, P.C.

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RICHMOND, VIRGINIA 23219
www.ip-counsel.net

PHONE: 804/344-8130
FAX: 804/644-3643
jthomas@ip-counsel.net

July 10, 2002

VIA FACSIMILE

William J. Slyne
Industrial Evolution Inc.
P. O. Box 245, Station R
Toronto, Ontario
CANADA M4G 3Z9

Re: U.S. Patent Application
Pattern Cutting
Application Serial No. 09/094,719
Your file No. 77846/vge
Our File No. AIRD 3

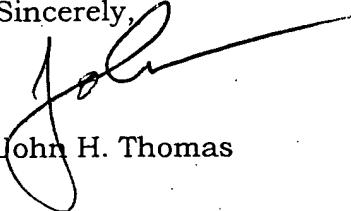
Dear Bill:

Enclosed is a draft Amendment and Response prepared to file in connection with the above-referenced application. Please review this Amendment and Response so that we can discuss it and make sure that the new claims cover your invention. As noted in my letter earlier this week, we should make every effort to file this Amendment and Response and Petition for Revival at your earliest convenience.

If you have any questions, please do not hesitate to call.

Regards.

Sincerely,


John H. Thomas

JHT/fcr

Enclosures

cc: Valerie Edwards, Esq. (Via Facsimile)

*** TX REPORT ***

TRANSMISSION OK

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|----------------|-------------|
| TX/RX NO | 2346 |
| CONNECTION TEL | 14168631515 |
| SUBADDRESS | |
| CONNECTION ID | |
| ST. TIME | 07/10 15:20 |
| USAGE T | 02 '24 |
| PGS. | 11 |
| RESULT | OK |

LAW OFFICES
JOHN H. THOMAS, P.C.
1561 E. MAIN STREET
RICHMOND, VIRGINIA 23219

PHONE: (804) 344-8130
TELECOPIER: (804) 644-3643

TO: Valerie Edwards, Esq.

FAX #: 416 863 1515

FROM: John H. Thomas

DATE: July 10, 2002

PAGES 11, including this cover sheet

SUBJECT:

COMMENTS:

*** TX REPORT ***

TRANSMISSION OK

| | |
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| TX/RX NO | 2345 |
| CONNECTION TEL | 14164100655 |
| SUBADDRESS | |
| CONNECTION ID | IEI CORPORATE |
| ST. TIME | 07/10 15:17 |
| USAGE T | 02 '26 |
| PGS. | 11 |
| RESULT | OK |

LAW OFFICES
JOHN H. THOMAS, P.C.
1561 E. MAIN STREET
RICHMOND, VIRGINIA 23219

PHONE: (804) 344-8130
TELECOPIER: (804) 644-3643

TO: William J. Slyne

FAX #: 416 410 0655

FROM: John H. Thomas

DATE: July 10, 2002

PAGES 11, including this cover sheet

SUBJECT:

COMMENTS:

JOHN H. THOMAS, P.C.

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1561 EAST MAIN STREET
RICHMOND, VIRGINIA 23219
www.ip-counsel.net

PHONE: 804/344-8130
FAX: 804/644-3643
jthomas@ip-counsel.net

July 8, 2002

VIA FACSIMILE

William J. Slyne
Industrial Evolution Inc.
P. O. Box 245, Station R
Toronto, Ontario
CANADA M4G 3Z9

Re: U.S. Patent Application
Pattern Cutting
Application Serial No. 09/094,719
Your file No. 77846/vge
Our File No. AIRD 3

Dear Bill:

I am writing to follow up on our telephone conversation last week. I received today your advance on fees and expenses on in this matter.

I have studied the file and believe that you should be able to obtain some level of patent protection over the Juckett and Pearl references that have most recently been cited against the application. I do not have copies of the prior art references, and I have not conducted nor seen any prior art search, so I cannot express with any more definitive confidence the exact scope that I think should be available for you.

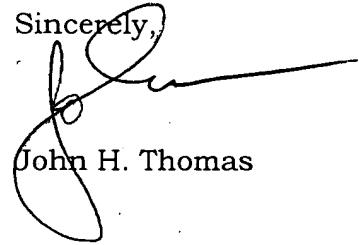
Before turning to the merits of the patent application, we need to discuss in more detail the petition to revive this application. Pursuant to rule 1.137(b), the petition to revive requires the following: the outstanding reply to the office action; the correct petition fee; and a statement that the entire delay in filing the required reply from the due date of the reply until the filing of the petition was unintentional. (A terminal disclaimer is not required in this case). I am enclosing for your reference the relevant portion of the Manual of Patent Examining Procedure- - the Patent Office Examiner's handbook. As you can see, the petition form is relatively simple. However, the timing of the petition in your case will require us to submit further information as to the cause of the delay between the date the Applicant was first notified that the application was abandoned and the petition the date was filed, and how such delay was "unintentional". (See especially pages 700-144 to 146, 154, 155). Accordingly, please provide facts and an explanation for this unintentional delay. We will provide this explanation up front with our petition.

Bill Slyne
Industrial Evolution Inc.
July 8, 2002
Page 2

While you provide this background for the petition, I will move forward with preparing a draft response to the Office Action. We should file the petition and response with all reasonable haste.

If you have any questions, please do not hesitate to call.

Regards.

Sincerely,

John H. Thomas

JHT/fcr

Enclosures

cc: Valerie Edwards, Esq. (Via Facsimile)

*** TX REPORT ***

TRANSMISSION OK

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| TX/RX NO | 2325 |
| CONNECTION TEL | 14164100655 |
| SUBADDRESS | |
| CONNECTION ID | IEI CORPORATE |
| ST. TIME | 07/08 15:55 |
| USAGE T | 17 '23 |
| PGS. | 24 |
| RESULT | OK |

LAW OFFICES
JOHN H. THOMAS, P.C.
1561 E. MAIN STREET
RICHMOND, VIRGINIA 23219

PHONE: (804) 344-8130
TELECOPIER: (804) 644-3643

TO: William J. Slyne

FAX #: 416 410 0655

FROM: John H. Thomas

DATE: July 8, 2002

PAGES 25, including this cover sheet

SUBJECT:

COMMENTS:

*** TX REPORT ***

TRANSMISSION OK

| | |
|----------------|-------------|
| TX/RX NO | 2326 |
| CONNECTION TEL | 14168631515 |
| SUBADDRESS | |
| CONNECTION ID | |
| ST. TIME | 07/08 16:14 |
| USAGE T | 09 '26 |
| PGS. | 25 |
| RESULT | OK |

LAW OFFICES
JOHN H. THOMAS, P.C.
1561 E. MAIN STREET
RICHMOND, VIRGINIA 23219

PHONE: (804) 344-8130
TELECOPIER: (804) 644-3643

TO: Valerie Edwards, Esq.

FAX #: 416 863 1515

FROM: John H. Thomas

DATE: July 8, 2002

PAGES 25, including this cover sheet

SUBJECT:

COMMENTS:

John Thomas

From: Valerie Edward [vedward@airdberlis.com]
Sent: Friday, June 21, 2002 3:15 PM
To: John H. Thomas (E-mail)

Hi John,

Bill Slyne at Industrial Evolution Inc. has come up with a theory for improvements to his method of differential velocity extrusion. He believes he could predetermine parameters to control extrusion rate so as to put in place optimal conditions for extrusion of structures having a given shape, but without the need for measurement and feed back control of extrusion velocity in real time. He's thinking along the lines of self-assembling structures.

Bill wants to know what costs would be involved in drafting and filing a continuation application in the USA to add and claim the new matter.

He already has PCT and CA applications on file corresponding to the existing US application. The PCT application has been published with search report and we are going through Chapter II. The Written Opinion is must be issued by October 2002.

In Canada, the application has been on file longer than one year, so it is not possible to claim internal priority from the first Canadian application. We would have to proceed with a fresh application in Canada if the improved method is not obvious in view of the original method.

What do you think?

PS.. he's still puzzling over what he wants to do with the US pattern cutting application.

Kind Regards,

Valerie G. Edward

AIRD & BERLIS LLP
BCE Place
Suite 1800, Box 754
181 Bay Street,
Toronto, Ontario
Canada
M5J 2T9

Direct Dial: 416 . 865 . 3403
Facsimile: 416 . 863 . 1515
Email: vedward@airdberlis.com

Web: www.airdberlis.com

This email may contain confidential and/or privileged information for the sole use of the intended recipient. Any review or distribution by others is strictly prohibited. If you have received this email in error, please contact the sender and delete all copies. Opinions, conclusions or other information expressed or contained in this email are not given or endorsed by the sender unless otherwise affirmed independently by the sender.

John Thomas

From: John Thomas [jthomas@ip-
Sent: Wednesday, June 12, 2002 4:07 PM
To: Valerie Edward
Subject: RE:

Valerie,

The petition to revive the application is based on either "unavoidable" or "unintentional" abandonment. I would want to know all of the facts, but the burden of the petition is much easier if revived based on unintentional abandonment. Of course at some point, delay becomes less "unintentional" if it takes many months after learning of abandonment to file the petition. The longer we wait, the more likely the PTO will question the "unintentional" basis for the petition. There is no absolute, statutory bar deadline, but the sooner the better.

John

-----Original Message-----

From: Valerie Edward [mailto:vedward@airdberlis.com]
Sent: Wednesday, June 12, 2002 3:31 PM
To: John H. Thomas (E-mail)
Subject:

John,

I have been speaking with Bill Slyne regarding the petition to revive US 09/094,719.

He is not yet certain whether he wants to go ahead. He expects to have a decision within about 1 month.

Is there any absolute deadline for filing the petition, or are we just looking at having to explain the delay?

Kind Regards,

Valerie G. Edward

AIRD & BERLIS LLP
BCE Place
Suite 1800, Box 754
181 Bay Street,
Toronto, Ontario
Canada
M5J 2T9

Direct Dial: 416 . 865 . 3403
Facsimile: 416 . 863 . 1515
Email: vedward@airdberlis.com

Web: www.airdberlis.com

This email may contain confidential and/or privileged information for the sole use of the intended recipient. Any review or distribution by others is strictly prohibited. If you have received this email in error, please contact the sender and delete all copies. Opinions, conclusions or other information expressed or contained in this email are not given or endorsed by the sender unless otherwise affirmed independently by the sender.

JOHN H. THOMAS, P.C.

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RICHMOND, VIRGINIA 23219
www.ip-counsel.net

PHONE: 804/344-8130
FAX: 804/644-3643
jthomas@ip-counsel.net

May 30, 2002

VIA FACSIMILE

Valerie G. Edwards, Esq.
Aird & Berlis LLP
BCE Place, Suite 1800
Box 754
181 Bay Street
Toronto, Ontario
CANADA M5J 2T9

Re: U.S. Patent Application
Pattern Cutting
Application Serial No. 09/094,719
Your file No. 77846/vge
Our File No. AIRD 3

Dear Valerie:

We have not received any instructions from you or from the client with respect to the above-referenced matter. Accordingly, we shall assume that the client has decided to not move forward regarding reviving this application and continuing with its prosecution. We will close our files on this matter. This will be our final reminder.

If you have any questions, please do not hesitate to call.

Regards.

Sincerely,

John H. Thomas

JHT/fcr

John Thomas

From: Valerie Edward [vedward@airdberlis.com]
S nt: Wednesday, June 12, 2002 3:31 PM
To: John H. Thomas (E-mail)

John,

I have been speaking with Bill Slyne regarding the petition to revive US 09/094,719.

He is not yet certain whether he wants to go ahead. He expects to have a decision within about 1 month.

Is there any absolute deadline for filing the petition, or are we just looking at having to explain the delay?

Kind Regards,

Valerie G. Edward

AIRD & BERLIS LLP
BCE Place
Suite 1800, Box 754
181 Bay Street,
Toronto, Ontario
Canada
M5J 2T9

Direct Dial: 416 . 865 . 3403
Facsimile: 416 . 863 . 1515
Email: vedward@airdberlis.com

Web: www.airdberlis.com

This email may contain confidential and/or privileged information for the sole use of the intended recipient. Any review or distribution by others is strictly prohibited. If you have received this email in error, please contact the sender and delete all copies. Opinions, conclusions or other information expressed or contained in this email are not given or endorsed by the sender unless otherwise affirmed independently by the sender.

JOHN H. THOMAS, P.C.

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1561 EAST MAIN STREET
RICHMOND, VIRGINIA 23219
www.ip-counsel.net

PHONE: 804/344-8130
FAX: 804/644-3643
jthomas@ip-counsel.net

May 17, 2002

VIA FACSIMILE

Valerie G. Edwards, Esq.
Aird & Berlis LLP
BCE Place, Suite 1800
Box 754
181 Bay Street
Toronto, Ontario
CANADA M5J 2T9

Re: U.S. Patent Application
Pattern Cutting
Application Serial No. 09/094,719
Your file No. 77846/vge
Our File No. AIRD 3

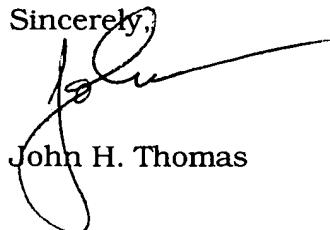
Dear Valerie:

Thank you forwarding to us the formal Notice of Abandonment in connection with the above-referenced Pattern Cutting patent application. We have still not heard any response from you or the client regarding our letter dated April 19, 2002 with respect to this matter. We have not yet taken any steps with respect to this application. We will not pursue any actions until we hear from you.

If you have any questions, please do not hesitate to call.

Regards,

Sincerely,


John H. Thomas

JHT/jmb

JOHN H. THOMAS, P.C.

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1561 EAST MAIN STREET
RICHMOND, VIRGINIA 23219
www.ip-counsel.net

PHONE: 804/344-8130
FAX: 804/644-3643
jthomas@ip-counsel.net

April 19, 2002

VIA FACSIMILE and U.S. MAIL

Valerie G. Edwards, Esq.
Aird & Berlis LLP
BCE Place, Suite 1800
Box 754
181 Bay Street
Toronto, Ontario
CANADA M5J 2T9

REMINDER

**CONFIRMATION
COPY**

Re: U.S. Patent Application
Pattern Cutting
Application Serial No. 09/094,719
Your file No. 77846/vge
Our File No. AIRD 3

Dear Valerie:

We have received the reconstructed file history with respect to the above-referenced application. We have also received the Revocation of Power of Attorney and Appointment of New Attorney.

At the outset, I can very simply respond to your question about reinstating the application or filing a continuation application. Based on the information that you have provided, the application has gone abandoned. In order to proceed at all with respect to this application, we will need to file a petition to revive it. In connection with the Petition for Revival, we will need to file a response to the outstanding Office Action or a Request for Continued Examination. Since the most recent action, August 15, 2001, is a non final action, we are entitled to make a response as a matter of right. There is no reason not to go forward with preparing a response to the Office Action.

At this point, I do not have any understanding of the scope of the prior art, because none of the references were included with the materials that you provided. Also, I do not have any feel for the invention and the scope of protection the client wants and feels it is entitled to. In order to move forward, I suggest that I need to immerse myself in the prior art. Further, I will want to discuss this invention with Mr. Slyne (or anyone else knowledgeable at Industrial Evolution). Because there has been so much prosecution in this case, I want to make sure that the claims that we would prepare and fight for are the claims that Industrial Evolution wants to obtain.

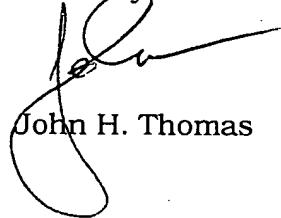
Finally, just as an observation, I note that the prosecution in this case seems unusually complicated. I believe that I can blame much of that complication on the Patent Office. It appears that at least three and possibly more Examiners have been involved with this application. I do not know how difficult it will be or not to obtain protection for the client.

The process of reviving this application and preparing a response will be a substantial undertaking -- particularly as I become familiar with all of the prior art and the invention itself. I would estimate that the cost of preparing the Petition for Revival and substantive response could be several thousand dollars. Accordingly, we will require a four thousand dollar advance on fees and expenses. Once we receive that amount from you we will move quickly to do what is necessary to get this application in good shape.

If you have any questions, please do not hesitate to call.

Regards.

Sincerely,

A handwritten signature in black ink, appearing to read "John H. Thomas".

John H. Thomas

JHT/jmb



AIRD & BERLIS LLP

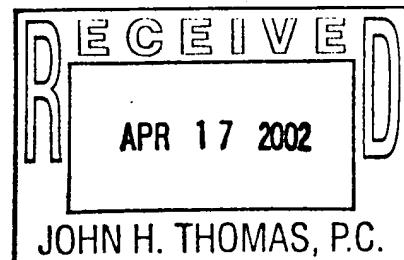
Barristers and Solicitors
Patent and Trade Mark Agents

Valerie G. Edward
Direct: 416.865.3403
E-mail: vedward@airdberlis.com

April 16, 2002

VIA COURIER

Mr. John H. Thomas
Law Offices of John H. Thomas, P.C.
1561 E. Main Street
Richmond, VA 23219
USA



Dear Mr. Thomas:

Re: U.S. Patent: PATTERN CUTTING
Application No: 09/094,719
Applicant: SLYNE, William J.
Our File No: 77846/vge

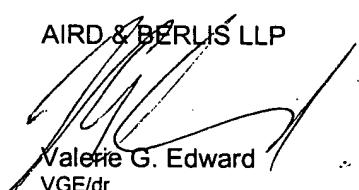
Enclosed herewith please find the executed Revocation and Appointment of Attorney in respect of the above identified U.S. patent application.

I am also enclosing a copy of all materials which I have obtained from the prior patent agent in connection with the prosecution of this application.

I look forward to receiving your comments upon whether to petition for reinstatement of this application, or to file a further continuation.

Yours very truly,

AIRD & BERLIS LLP


Valerie G. Edward
VGE/dr
Encl.

::ODMA\PCDOCS\DOCS\1177680\1

JOHN H. THOMAS, P.C.

1561 East Main Street
Richmond, Virginia 23219
www.ip-counsel.net

Patents
Trademarks
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Intellectual Property

(804) 344-8130
fax (804) 644-3643
jthomas@ip-counsel.net

March 4, 2002

VIA FACSIMILE & AIRMAIL

Valerie G. Edwards, Esq.
Aird & Berlis LLP
BCE Place, Suite 1800
Box 754
181 Bay Street
Toronto, Ontario
CANADA M5J 2T9

Re: Industrial Evolution, Inc.
Patent and Trademark Matters

Dear Valerie:

Thank you for forwarding the information to us regarding the Industrial Evolution matters. We enclose by mail the Revocation and New Powers of Attorney for the two patent cases. Please have them signed and returned to us for filing in the Patent Office.

With respect to the trademark application, the application was published for opposition on December 25, 2001. Therefore, assuming no opposition to that application for registration was filed, the Certificate of Registration should now issue in due course (the next several months). Rather than gum up the bureaucratic machinery to merely receive and forward to you the Certificate of Registration, we suggest that the Power of Attorney is not urgent. For docketing purposes, however, we will need a copy of the registration once it issues.

With respect to the '867 application, all we need is the application file that includes the Information Disclosure Statement and any other materials regarding the invention. We can handle it thereafter.

Valerie G. Edwards, Esq.

March 4, 2002

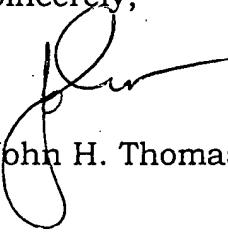
Page 2

Finally, with respect to the '719 patent application, there is of course a procedure to revive the application as unintentionally abandoned. Before I can make any informed recommendation regarding preparing a response to the outstanding Office Action, a further CPA, or a Notice of Appeal, I will need the full patent file including file history and all references cited. In the meantime, I will print out the published application in order to get a preview. Also, please provide some explanation for the unintentional abandonment of the application.

If you have any questions, please do not hesitate to call. We look forward to receiving the further materials from you.

Regards.

Sincerely,


John H. Thomas

JHT/fcr



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

William J. Slyne

Group Art Unit:

Serial No.: 09/609,867

Examiner:

Filed:

For: DIFFERENTIAL VELOCITY EXTRUSION

**REVOCATION OF POWER OF ATTORNEY
AND APPOINTMENT OF NEW ATTORNEY**

Assistant Commissioner for Patents
Washington, DC 20231

SIR:

Applicant hereby revokes all previous Powers of Attorney in the above-identified application and hereby appoints as its attorneys with power of substitution and revocation to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John H. Thomas (33,460)

whose postal address is:

John H. Thomas, P.C.
1561 East Main Street
Richmond, Virginia 23219
(804) 344-8130 phone
(804) 644-3643 fax

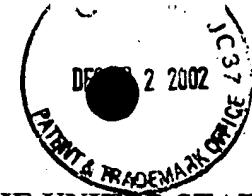
Date: _____

By: _____

Name: _____

Title: _____

Our Docket No.: AIRD 2



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of

William J. Slyne

Group Art Unit:

Serial No.: 09/094,719

Examiner:

Filed:

For: PATTERN CUTTING

**REVOCATION OF POWER OF ATTORNEY
AND APPOINTMENT OF NEW ATTORNEY**

Assistant Commissioner for Patents
Washington, DC 20231

SIR:

Applicant hereby revokes all previous Powers of Attorney in the above-identified application and hereby appoints as its attorneys with power of substitution and revocation to prosecute this application and to transact all business in the Patent and Trademark Office connected therewith:

John H. Thomas (33,460)

whose postal address is:

John H. Thomas, P.C.
1561 East Main Street
Richmond, Virginia 23219
(804) 344-8130 phone
(804) 644-3643 fax

Date: _____

By: _____

Name: _____

Title: _____

Our Docket No.: AIRD 3

*** TX REPORT ***

TRANSMISSION OK

| | |
|----------------|-------------|
| TX/RX NO | 1828 |
| CONNECTION TEL | 14168631515 |
| SUBADDRESS | |
| CONNECTION ID | |
| ST. TIME | 03/04 15:27 |
| USAGE T | 01 '08 |
| PGS. | 5 |
| RESULT | OK |

LAW OFFICES
JOHN H. THOMAS, P.C.
1561 E. MAIN STREET
RICHMOND, VIRGINIA 23219

PHONE: (804) 344-8130
TELECOPIER: (804) 644-3643

TO: Valerie Edwards, Esq.

FAX #: 416 863 1515

FROM: John H. Thomas

DATE: March 4, 2002

PAGES 5, including this cover sheet

SUBJECT:

COMMENTS: